



State of California  
Fair Political Practices Commission

# Bulletin

Vol. 26, No. 4

November 2000

## CHAIRMAN'S MESSAGE

### **Technical Assistance Now Available Toll-Free; *Major Overhaul of Reporting Rules Set for 2001***

By now you should have heard the great news that our toll-free help line is up and running! Please help us spread the word that anyone needing advice or help can reach us toll-free at **1-866-ASK-FPPC**. Our terrific technical assistance staff is available Monday through Friday to answer questions about every aspect of the Political Reform Act.

Phase 2 of our **conflict of interest improvement project** is nearing completion. We expect to adopt revised and simplified regulations in December. The bulk of our changes will have occurred by then, although you can expect to see some continuing cleanup proposals for a few months to come. In January we will begin disseminating educational materials on the new conflicts rules.

At our September meeting, the Commission agreed on certain priority projects for the upcoming year. Among our priorities will be **a major overhaul of the campaign reporting rules** (see article, page 6). Like the conflicts improvement project, the campaign reporting project will take some time to complete, but we believe it will be time well spent. Each month, beginning in the spring of next year, the Commission will tackle an aspect of reporting, to determine where we can simplify, improve and codify our existing rules and advice. Once the project is under way, look for interested persons meetings in your area. In the meantime, let us know your suggestions on areas that need our attention. Our web site has a description of the project and a list of people to contact at the agency. Of course, you can always write me directly with your ideas, and I will make sure that the Commission and our staff consider your comments.

Over the past year we have instituted three **expedited enforcement programs** in the areas of major donor reports, late contribution reports and Form 700 statements of economic interests. These expedited procedures have made it possible for us to handle a far greater number of reporting violation cases than in previous years. Next year, we will be assessing the effectiveness of those programs. As always, we welcome your feedback.

— Karen Getman

---

## **Future Commission Meeting Dates**

The Commission meeting dates for the rest of this year will be:

**November 3**  
**December 8**

Generally, Commission meetings begin at 9:30 a.m.

---

### **Contents**

**3 New FPPC General Counsel**  
**4 Litigation Update**  
**6 Miscellaneous**  
**7 ....of News to Lobbyists**  
**8 August Commission Meeting Summaries**  
**11 September Commission Meeting Summaries**  
**14 October Commission Meeting Summaries**  
**17 Legislative Wrap Up**  
**19 Clerk's Corner**  
**20 Advice Summaries**

### **California Fair Political Practices Commission**

Karen A. Getman, Chairman  
William Deaver, Commissioner  
Kathleen Makel, Commissioner  
Carol Scott, Commissioner  
Gordana Swanson, Commissioner

### **Commission Meetings**

Meetings are regularly scheduled for the first Friday of each month at 9:30 a.m. in the Commission Hearing Room, 428 J Street, 8<sup>th</sup> Floor, Sacramento. Please contact the Commission to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Order, and Decisions materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

To receive a copy of the Commission meeting agenda (free) or a copy of the full meeting packets (\$10/month or \$100/year) contact the Commission at (916) 322-5660. The agenda and packet are also available through the Commission's Fax-on-Demand service at 1-888-622-1151, index number 7000. Additionally, past and future agendas are posted on the website at [www.fppc.ca.gov](http://www.fppc.ca.gov).

## **Sacramento Attorney Replaces Gnekow as FPPC General Counsel**

Sue Ellen Wooldridge, a Sacramento attorney with long experience representing government, recently joined the FPPC as General Counsel. Before joining the FPPC, Wooldridge was a partner in the Sacramento law firm of Riegels Campos & Kenyon, handling civil litigation in state and federal courts. She represented the National Association of Attorneys General and the State of California in settlement negotiations with the tobacco industry.

“Sue Ellen is a top-notch attorney,” said FPPC Chairman Karen Getman. “Her representation of the people of California in the nationwide tobacco settlement demonstrates both rare legal talent and a commitment to the public interest. She will be a valuable asset to the Commission as it moves forward with a full agenda of complex and important legal issues.”

Before joining Riegels Campos & Kenyon, Wooldridge worked for the Attorney General’s Office as a Special Assistant Attorney General. While working at the Department of Justice, she handled civil litigation stemming from voter-approved initiatives and was

a principal negotiator in settlement of False Claims Act Litigation against a major bank which handled public bond financing for California public entities.

Among other responsibilities in the Attorney General’s Office, she reviewed state Department of Justice publications for compliance with the mass mailing restrictions of the Political Reform Act of 1974, which established the FPPC. She also prepared background reports for the Commission on Judicial Appointments regarding Supreme and appellate court nominees and appointees.

From 1987-94, she was an associate attorney with the Sacramento firm of Diepenbrock, Wulff, Plant & Hannegan, handling a variety of civil litigation in state and federal courts on subjects ranging from insurance contracts and employment disputes to environmental and general commercial litigation.

She received her B.A. Phi Beta Kappa in 1983 from the University of California, Davis, where she was a member of the Women’s Varsity Basketball team. She earned her J.D. with honors in 1987 from Harvard Law School, where she was recognized as an outstanding graduate.



## **Court Upholds FPPC Decision To Require Strawberry Commission To Amend Conflict of Interest Code**

A Sacramento Superior Court judge has upheld the FPPC's actions in requiring the California Strawberry Commission to amend its conflict of interest code. The decision came after two years of negotiations between the FPPC and the Strawberry Commission.

The Strawberry Commission had objected to an FPPC decision that required it to make certain amendments to its code. These changes include the disclosure of members' investments and business positions in any business entity that was "a producer, processor or shipper of fresh fruits." Previously, the code only required disclosure of investments in strawberry interests.

The Strawberry Commission has written to the FPPC and indicated it will not appeal the ruling. FPPC Assistant General Counsel Luisa Menchaca handled the case before Superior Court Judge James T. Ford.

## **Constitution Protects Donations From U.S. Citizens Living Abroad**

U.S. District Court Judge Edward J. Garcia has granted a permanent injunction ordering the FPPC not to enforce a portion of a state statute prohibiting campaign contributions from U.S. citizens living abroad.

The judge invalidated the "foreign principals" statute, California Government Code § 85320, only as it relates to U.S. citizens living abroad and to persons soliciting or accepting contributions from those citizens in connection with state or local ballot measure campaigns.

The suit stems from 1997 legislation drafted by then-Senator Quentin Kopp. The bill, SB 109, was intended to extend prohibitions in the Federal Election Campaign Act (FECA), against

campaign contributions by "foreign principals" to state and local ballot measure committees.

The legislation borrowed the definition of "foreign principal" from its federal origins, but inadvertently failed to incorporate FECA's exception for U.S. citizens living abroad.

"The FPPC was required to enforce the statute," said staff counsel Mark Krausse, who handled the case for the FPPC. "Absent judicial intervention, the state Constitution prohibits a state agency from refusing to enforce a statute on the basis that it is unconstitutional."

## **State Appeals Court Judge Concludes Mayor Brown Can Participate In Redevelopment Decisions**

The State Court of Appeals for the First Appellate District has determined that Oakland Mayor Jerry Brown can participate in decisions regarding redevelopment in Oakland even though Brown owns property in the proposed redevelopment area and stands to benefit economically from the development.

The court cited the Political Reform Act's "legally required participation" exception, which allows for participation by an official with a conflict of interest when no other decision-maker is available.

The court determined this exception should apply to Brown because the city charter states no ordinance can take effect by the mayor's inaction. Because Brown would be disqualified from all decisions regarding the redevelopment area, no ordinance about the redevelopment area, could take effect. The FPPC argued Brown should be required to delegate his decision-making duties to the vice-mayor or the city manager.

The Commission decided not to seek further review of the court's ruling at the November meeting.

## **Judge Grants FPPC Motion to Dismiss Pro-Life Complaint**

United States District Court Judge Frank Damrell has denied a motion by the California Pro-Life Council (CPLC) for a preliminary injunction against key campaign disclosure provisions of the Political Reform Act. Judge Damrell also granted a motion by the Fair Political Practices Commission and state Attorney General Bill Lockyer to dismiss major elements of the CPLC complaint.

FPPC Chairman Karen Getman, who was named as a defendant in the CPLC complaint, along with Lockyer and the other four members of the FPPC, issued the following statement:

“We are very pleased with the court’s ruling. The court recognized the important public interest in knowing the sources of money spent on ballot measures in this state. In light of the court’s order, the plaintiff should seriously reconsider the extreme position it has taken in this lawsuit.”

The Pro-Life suit, filed against the FPPC in August, argued that certain disclosure provisions of the Political Reform Act crossed the line between “express advocacy,” which the U.S. Supreme Court has held may be regulated, and “issue advocacy,” which may not.

“CPLC has failed to offer any evidence that the [FPPC] regulations have chilled the speech of others,” Damrell ruled in the order denying the CPLC motion for preliminary injunction. “Indeed, the significant and rapidly growing amount of ballot measure contributions (\$150 million in 1996 and one-quarter of a billion dollars in 1998), suggests the opposite is true.”

In the order granting the attorney general/FPPC motion to dismiss key elements of the complaint, Damrell wrote: “CPLC’s contention that the State does not have an interest in informing the electorate of the source of funding for ballot measure initiatives is unfounded...The initiative process is part of California’s legislative process, allowing voters to become lawmakers. Given the large amount of money being spent to support and oppose these legislative campaigns, the State’s interest in providing the electorate with information concerning the source of these funds is substantial.”

## **Prop. 208 Status Conference Set for November; Final Arguments in January**

A status conference on continuing litigation involving the 1996 campaign finance reform initiative, Proposition 208, is scheduled in U.S. District Court in Sacramento for November 15, 2000, before Judge Lawrence K. Karlton. Final arguments on the recently completed second trial on challenges to Prop. 208 are scheduled January 23 and 24, 2001.

### **Year-long Effort to Streamline Conflicts Rules Nears Completion; Campaign Reporting Project Planned for 2001**

The FPPC is wrapping up its exhaustive, year-long review of the complex conflict-of-interest rules – what Chairman Getman calls “one of the most complex and controversial aspects of the Political Reform Act.”

“The law is deceptively simple,” Getman said. “A public official cannot ‘attempt to use his official position to influence a governmental decision’ on a matter in which he or she has a personal financial interest – but it has generated more confusion and frustration among public officials than any other aspect of the Act.”

In addition to looking at ways to make the conflicts rules more “user-friendly,” the Commission is slated to decide whether members of particular trades and professions are subject to excessive regulation. Under the current laws, realtors are disqualified from voting on land use issues and landlords are disqualified from voting on rent control issues. The Commission will decide whether to extend a “public generally” exception to these groups. The Commission will also consider an amendment to the legally required participation regulation – this regulation was at issue in *Brown v. Fair Political Practices Commission*. (See Chairman’s Message, page 1.)

In 2001, the Commission will start its new project, a review of the campaign disclosure rules. The Commission will explore ways to make it easier for candidates, committees and elected officials to comply with campaign disclosure laws, while making campaign data more accessible to the public.

In its review of campaign reporting laws, the Commission may review reporting requirements for ballot measure committees. Based on the *Fontana* Opinion, groups supporting or opposing a ballot measure currently do not incur reporting requirements until the measure has qualified for the ballot, then, once the measure qualifies, the group must “recapture” all prior campaign activity. The Commission may discuss whether this rule is desirable or may consider changing the law.

### **Internal Revenue Service Advisory**

Committees that receive annual contributions of more than \$25,000 should contact the Internal Revenue Service regarding a reporting requirement that took effect July 31, 2000. A reporting form, Form 8871, is required to be filed both on paper and electronically with the IRS. In addition, such committees are required to have an employer’s identification number. The identification number and information concerning this new reporting requirement can be obtained by calling the IRS helpline at 1-877-829-5500

### **Time to Renew Lobbyist Registration!!**

Lobbying firms and lobbyist employers who intend to engage in lobbying activities in the next legislative session (January 1, 2001 – December 31, 2002) need to renew their lobbying registration with the Secretary of State. Photographs of lobbyists, new authorizations and a registration statement must be filed between November 1 and December 31, 2000.

Along with the firm or employer's registration statements, lobbyists must renew their lobbyist certifications. A lobbyist who has not completed a lobbyist ethics course in the previous 12 months must attend one of the six ethics courses being offered this fall by the Assembly Legislative Ethics Committee and the Senate Committee on Legislative Ethics. If the lobbyist fails to attend one of these courses, a conditional certification will be issued and he or she will have until June 30, 2001, to take the course. If the ethics course has not been completed by June 30, 2001, the conditional certification will be voided and the lobbyist will not be permitted to lobby until such time as he or she has completed the course and filed with the Secretary of State a new lobbyist certification.

### **Lobbyist Ethics Courses Offered**

The Assembly Legislative Ethics Committee and the Senate Committee on Legislative Ethics have scheduled six courses for lobbyists. If you have not taken the lobbyist ethics course in the previous 12 months, you should plan to attend one of these courses.

The course fee is \$25. Reservations and payment of the course fee are required in advance. To obtain your sign-up form, call Jeanie Myers at the Senate Committee on Legislative Ethics at (916) 324-6929.

#### **Northern California Locations: *Sacramento Convention Center 13<sup>th</sup> & J Street, Sacramento***

- ✧ Tuesday, November 14, 2000  
10:00 to noon - Room 202
- ✧ Tuesday, November 14, 2000  
1:30 p.m. to 3:30 p.m. – Room 202
- ✧ Thursday, January 18, 2001  
1:30 p.m. to 3:30 p.m. – Room 204
- ✧ Thursday, January 25, 2001  
1:30 p.m. to 3:30 p.m. – Room 204
- ✧ Friday, April 20, 2001  
10:00 a.m. to noon – Room 308

#### **Southern California Location: *Ronald Reagan State Bldg. Los Angeles***

- ✧ Friday, March 16, 2001  
10:00 a.m. to Noon – Room TBA

# August Commission Meeting Summaries

---

## Commission Considers *Lucas* Opinion

The Commission considered a request for an opinion from Steve Lucas on behalf of his client, Glenn Bystrom, former Deputy Director of the Board of Equalization (BOE), Sales and Use Tax Department. The request asked for an interpretation of when an individual actually participates within the meaning of the “revolving door” and “switching sides” bans against participation, after government employment, in a decision in which the government official participated while employed by the state.

Mr. Lucas had previously received advice from staff that Mr. Bystrom had participated in audits conducted by the Board of Equalization while he served as Deputy Director at BOE. He noted that BOE conducts approximately 20,000 audits per year by auditors in the field offices, but that Mr. Bystrom did not have direct supervisory authority over the audits, and only participated in those audits that reach the Board for discussion (approximately 1% of the audits). Mr. Lucas pointed out that the statute disqualifies the former official if the official participated “personally and substantially,” and that the regulation interprets the statute to mean that supervisors are deemed to have participated personally and substantially if they supervised the proceedings. He argued that the regulation did not apply in Mr. Bystrom’s case because Mr. Bystrom did not supervise the proceedings.

The Commission agreed and directed staff to prepare an opinion allowing Mr. Bystrom to participate except in those instances where Mr. Bystrom had personal and substantial involvement.

## “Offensive Use” of Conflict of Interest Rules Discussed

The Commission’s Legal Division brought to the Commission’s attention situations where certain individuals had used conflict of interest

rules to have a public official disqualified from participating in a decision. Those situations involved the engineering of a disqualification by becoming a source of income for the public official. Staff indicated that whether and how often such conduct occurs is difficult to prove. It was noted that this situation would typically arise around issues where the public official’s vote is crucial.

The Commission considered several alternatives to curb this practice but after lengthy discussion directed staff to continue studying the issue, conduct interested persons meetings, consult with city attorneys and other organizations, and report back to the Commission with a recommendation.

## Conflict Project Attempts to Define ‘Doing Business in the Jurisdiction’

The Commission listened to a staff presentation on existing controversy on what it means for an individual or entity to be “doing business in the jurisdiction.” Public officials are required to report investments and income from sources that are “doing business in their jurisdiction.” That phrase is not defined in the Political Reform Act, but was defined in the *Baty* Opinion to mean, among other things, “to have business contacts with the jurisdiction.” The Commission through advice letters has interpreted that phrase on a case-by-case basis. More recently, questions have arisen regarding entities that market products on the Internet.

Currently there are two legislative bills that address Internet activities. One requires tax collection for retailers located out of the state marketing their products within the state (AB 2412) and the second bill addresses campaign related activities on the Internet (AB 2720).

Commission directed staff to explore whether this issue could be included as part of AB 2720, which, if enacted, will create a Commission on Internet Political Practices. Staff also was



## August Commission Meeting Summaries

directed to look at what “doing business” means for purposes of the Act for discussion in November.

The Commission took action on the following enforcement matters:

**Terry W. Cameron and T.C. Construction Company, Inc.,** were fined \$70,000 for campaign money laundering activities. T.C. Construction is a company owned by Terry Cameron that primarily does construction for water, sewer, and storm drains. In May 1998, Cameron and T.C. Construction laundered thirty-eight (38) campaign contributions to two candidates for Santee City Council.

**BTR, Inc., Jill Lederer, Yes! Remove Elois Zeanah Committee, and Linda Tucker, Treasurer,** were fined \$18,000 for failure to timely file a major donor campaign statement, file late contribution reports, and include proper sender identification on two mass mailings sent in 1996 in connection with their support of a Thousand Oaks ballot measure. Additionally, in 1997, respondents failed to timely disclose contributions, failed to file late contribution reports and disclose the sponsored committee status of the Yes! Remove Elois Zeanah committee in connection with the attempted recall of Thousand Oaks City Councilwoman Zeanah.

**Independent Pac Local 188 International Association of Firefighters and Richard Kalayjian,** were fined \$17,000, for reporting the receipt of contributions from 96 “retired firefighters” in 1997, although no contributions were actually received from those individuals, and failed to report a loan repayment in 1997.

**International Brotherhood of Electrical Workers Committee on Political Education, Sponsored by International Brotherhood of Electrical Workers,** were fined \$10,000 for failure to file four pre-election campaign statements and three late contribution reports in connection with the March 1996 primary election and the November 1996 general election.

**North County Blueprint Company, Inc.,** was fined \$7,200 for campaign money laundering activities. North County Blueprint is a family owned company that produces and reproduces blueprints for engineering and architectural firms. In May 1998, North County Blueprint reimbursed four owners of the company for contributions they made to two candidates for Santee City Council.

**Fair Political Practices v. Mary Lou Clift, Friends of Mary Lou Clift, and Laura A. Dunlap, Treasurer.** In the Fall of 1996, Mary Lou Clift was an unsuccessful candidate for Vista City Council. In July 2000, a complaint and stipulation for entry of judgment entered into by all parties was filed in Sacramento Superior Court. Defendants in this civil action agreed and have paid \$9,100 to the General Fund of the State of California. This includes a \$6,000 fine and payment of a \$3,100 anonymous contribution. (Note: The Political Reform Act requires anonymous contributions of \$100 or more be sent to the General Fund of the State of California.)

**City of Burbank, Bill Wiggins, Bob Kramer, Dave Golonski, Ted McConkey, Susan Spanos, and Stacey Murphy,** were fined \$6,000 after the Commission voted to adopt an Administrative Law Judge’s proposed decision. Administrative Law Judge Jaime Rene Roman issued a proposed decision that held that in 1997, the Burbank City Council sent three mass mailings, at public expense, that featured elected officials, to residents of Glendale and Pasadena, in violation of Government Code Section 89001. The mailers focused on a stalemate between the City of Burbank and the Burbank-Glendale-Pasadena Airport Authority over the issue of airport expansion. The Airport Authority was established by the Cities of Burbank, Glendale and Pasadena to manage the Burbank Airport by a joint powers agreement which is governed by a nine-member body comprised of three representatives from each city.

## August Commission Meeting Summaries

---

**California Refuse Removal Council North Political Action Committee**, was fined \$5,750 for failing to timely file three pre-election statements and one odd-year campaign report during the period of January 1, 1995 through December 31, 1996.

**Theodore Jackson**, former commissioner with the Fair Employment and Housing Commission, was fined \$3,000 for failing to timely file his 1997 and 1998 annual Statements of Economic Interests.

**Mercury General Corporation** was fined \$2,000 for failing to file a major donor campaign statement by January 31, 1999, reporting contributions of \$200,000 it made in 1998.

**Horton Barbaro & Reilly** was fined \$2,000 for failing to file a late contribution report disclosing a contribution of \$25,500 made to the Consumers and Their Attorneys, Yes on Prop. 30 committee in the final days before the March 2000 primary election.

**Robinson, Calcagnie & Robinson, Inc.**, was fined \$2,000 for failing to file a late contribution report disclosing a contribution of \$50,000 it made in the final days before the March 2000 primary election.

**Silicon Valley Manufacturing** was fined \$2,000 for failing to file a late contribution report disclosing a contribution of \$50,000 made to Californians for Clean, Safe, Reliable Water Yes on Propositions 12/13 in the final days before the March 2000 primary election.

**Walkup, Melodia, Kelly & Echeverria** was fined \$2,000 for failing to file a late contribution report disclosing a contribution of \$25,000 made in the final days before the March primary election.

**F. Warren Hellman** was fined \$1,500 for failing to file a late contribution report disclosing a contribution of \$10,000 made to the Shelley for Assembly committee in the final days before the March 2000 primary election.

**Berding & Weil, LLP** was fined \$1,500 for failing to file a late contribution report disclosing a contribution of \$10,000 made to the Consumers and Their Attorneys, Yes on Prop. 30 committee in the final days before the March 2000 primary election.

**R.J. Gordon** was fined \$1,500 for failing to file a late contribution report disclosing a contribution of \$10,000 made to the No on Knight – No on Prop. 22 committee in the final days before the March 2000 primary election.

**Maefield Development LLC** was fined \$1,500 for failing to file a late contribution report disclosing a contribution of \$10,000 made to the Friends of Paul Koretz committee in the final days before the March 2000 primary election.

**Barbara Grimm** was fined \$1,500 for failing to file a major donor campaign statement by January 31, 1999, reporting monetary contributions of \$51,350 and in-kind contributions of \$17,867 made to various candidates in 1998.

**Andres R. Torres**, planning commissioner for the City of San Fernando, was fined \$500 for failing to timely file his assuming office Statement of Economic Interests by June 3, 1999.

**John Palmer** was fined \$400 for failing to file a major donor campaign statement by January 31, 1999, reporting contributions of \$15,000 he made to the Lungren Committee for Common Sense Conservatism in 1998.

**James Kennedy**, city councilmember for the City of Clearlake, was fined \$250 for participating and voting on an abatement of a public nuisance on property located within 300 feet of his real property interests. His participation and vote violated the conflict of interest provisions of the Act.

## **Commission Receives Recommendations of the McPherson Commission**

Jim Porter, a member of the McPherson Commission (BiPartisan Commission on the Political Reform Act), explained the perspective of the McPherson Commission, noting that its members were committed to supporting the Political Reform Act (Act), improving the Act, and supporting the FPPC. He reported that the McPherson Commission went all over the state of California to solicit input from members of the public and participants in the political field during its eighteen-month study.

Steve Lucas, Chairman of the McPherson Commission, presented the Commission 16 of the 35 recommendations from the study for the FPPC's consideration. The recommendations not presented to the Commission included recommendations that (1) were adopted or substantially adopted already, (2) were premature because of the FPPC's Phase 2 project, (3) implicate Proposition 208, or (4) relate to private attorney general enforcement issues. Mr. Lucas indicated that the McPherson Commission would seek legislative support for the recommendations and hoped for support from the FPPC.

## **Commission Adopts *Lucas* Opinion**

The Commission adopted the *Lucas* Opinion which provided that Glenn Bystrom, former Deputy Director of the Sales and Use Tax Department at the Board of Equalization, did not "personally and substantially" participate in all audits conducted by his agency. The opinion concluded that where an official who is responsible primarily for creation and implementation of general policies has no such personal involvement in individual audits, the official would not be deemed to have "participated" in those audits for purposes of the permanent ban. (See discussion in August Commission Meeting Summaries.)

## **Conflict of Interest Project Update 'Public Generally' Issues Undergo Lengthy Pre-Notice Discussion**

Several issues and points of discussion were considered by the Commission regarding the public generally regulations proposed for amendment. Still at issue and yet to be resolved are the percentage to apply to decisions which affect businesses and nonprofit entities and the public generally application for rent control decisions. Significant testimony on these issues was heard and staff was directed to study these issues further and allow the Commission to revisit the proposals at a future meeting.

The Commission did give preliminary approval to staff to remove the application of "5,000 residents" for real property decisions and replace that standard with "5,000 property owners or homeowners."

Also approved was the public generally standard for decisions, which would affect a government agency that is a source of income to a public official. A public generally exception would apply if a particular decision has some effect on members of the public.

## **CalPERS Candidates Subject to Audit**

Recent legislation requires the Commission to adopt regulations on audits and campaign reports for the California Public Employees Retirement System Board Members (CalPERS). Commission staff suggested that CalPERS candidates be subject to an audit threshold similar to statewide and legislative candidates. A CalPERS attorney indicated that CalPERS candidates spend between \$500 and \$2,500 for an election and should therefore be treated more like local candidates when determining how many candidates should be drawn from a pool for audit. FPPC staff indicated that using a formula similar to local candidates would result in only one CalPERS candidate being drawn for an audit. The Commission concluded that mandatory audits

# September Commission Meeting Summaries

---

would be required for all CalPERS candidates who receive contributions of \$1,000 or more and require random audits for 25% of those candidates who receive less than \$1,000 in contributions.

## **Gift Limit Adjusted Effective January 1, 2001**

The Commission gave preliminary approval to notice regulations adjusting the gift limit from \$300 to \$320. The Act provides the gift limit will be adjusted biennially to reflect changes in the Consumer Price Index (CPI). The formula to adjust the gift limit was based on the most recent CPI forecast in May of this year. Depending on the forecast in November, staff will adjust the amount accordingly and present the new figure for the Commission's approval.

## **Identification Numbers Required On Lobbying Statements**

The Commission approved a regulation that requires lobbyists who file electronically to include the Secretary of State's identification number for any lobbying entity that received payments from or made payments to the filer, in each quarterly report. Use of identification numbers on electronically filed statements will ease matching reports of a lobbying firm with that of its clients.

The Commission took action on the following enforcement matters:

**Hewlett Packard** was fined \$8,000 for failing to file four late contribution reports disclosing contributions totaling \$95,000 made to four ballot measures in the final days before the March 2000 primary election.

**Nancy Pollard, Committee to Elect Nancy Pollard Judge, and Ann M. Garten**, were fined \$5,500 for failing to report contributions and loans received on four pre-election and two semi-

annual statements in connection with the 1996 primary and general election.

**Knight & Associates** was fined \$4,875 for failing to file three late contribution reports for contributions of \$32,500 made to three assembly candidates just prior to the March 2000 primary election.

**Cohen Medical Corporation** was fined \$4,425 for failing to file three late contribution reports for contributions of \$29,500 made to three assembly candidates just prior to the March 2000 primary election.

**Dudek & Associates** was fined \$3,600 for making contributions in the name of another person. This practice is commonly referred to as campaign money laundering. In May of 1998, Dudek made two illegal campaign contributions, totaling \$500, by reimbursing two shareholders of the company for their contributions made in 1998 to a Santee City Council candidate.

**Republican National Committee – California Account** was fined \$2,000 for failing to file a late contribution report disclosing a contribution of \$50,000 made to the Assembly Republican Leadership Fund, a committee controlled by Assemblyman William Leonard, in the final days before the November 1998 general election.

**UFCW Region 8 State Council** was fined \$2,000 for failing to file a late contribution report disclosing a contribution of \$17,925 made to the Taxpayers for Fair Elections/No on Prop. 25, a Coalition of Taxpayers, Seniors, Teachers, Business, Labor & Campaign Finance Reform Experts committee in the final days before the March 2000 primary election.

## September Commission Meeting Summaries

---

**Harold Asher** was fined \$2,000 for failing to file a late contribution report disclosing a contribution of \$25,000 made to the Coalition to Save Prop. 10, a Project of Forum for Early Childhood Development, No on 28 committee in the final days before the March 2000 primary election.

**David Ring** was fined \$2,000 for failing to file a late contribution report disclosing a \$60,000 contribution made to the No on Knight – No on Prop. 22 committee in the final days before the March 2000 primary election.

**Central Financial Acceptance Corp** was fined \$2,000 for failing to file a late contribution report disclosing a contribution of \$20,000 made to the Californians for Safe Parks – Yes on Proposition 12 committee in the final days before the March 2000 primary election.

**Northwest Pipe Company** was fined \$2,000 for failing to file a late contribution report disclosing a contribution of \$25,000 made to the Californians for Clean, Safe, Reliable Water Yes on Propositions 12/13 committee in the final days before the March 2000 primary election.

**Lopez, Hodes, Restaino, Milman & Skikos** was fined \$2,000 for failing to file a late contribution report disclosing a contribution of \$15,000 made to the Consumers and Their Attorneys, Yes on Prop. 30 committee in the final days before the March 2000 primary election.

**James E. Holman** was fined \$1,500 for failing to file two late contribution reports disclosing a contribution of \$5,000 made to Dennis Hollingsworth for Assembly and a contribution of \$5,000 made to Friends of Jay LaSuer in the final days before the March 2000 primary election.

**Gordon Holdings LP** was fined \$1,500 for failing to file a late contribution report disclosing a contribution of \$10,000 made to Bennett for Assembly 2000 in the final days before the March 2000 primary election.

**Robert Emami** was fined \$1,500 for failing to file a late contribution report disclosing a contribution of \$10,000 made to Friends of Gil Cedillo in the final days before the March 2000 primary election.

**Thomas J. Jordan II** was fined \$1,500 for failing to file a late contribution report disclosing a contribution of \$10,000 made to Friends of Senator Ross Johnson in the final days before the March 2000 primary election.

**Tom Hayden** was fined \$1,500 for failing to file a late contribution report disclosing a contribution of \$10,000 made to the Senate Democratic Leadership Fund in the final days before the March 2000 primary election.

**Zora Charles** was fined \$1,500 for failing to file two late contribution reports disclosing a contribution of \$5,000 made to Californians for Safe Neighborhood Parks and Clean Water Yes on Proposition 12 and 13 and a \$5,000 contribution made to Coalition to Save Prop. 10, a Project of Forum for Early Childhood Development; No on 28, both made in the final days before the March 2000 primary election.

**Peter C. Foy & Associates** was fined \$1,500 for failing to file a late contribution report disclosing a contribution of \$10,000 made to Norm Walker for Assembly in the final days before the March 2000 primary election.

**Rhoda Ann Daclison**, field representative for Assemblywoman Elaine Alquist, was fined \$250 for failing to timely file her assuming office Statement of Economic Interests by July 1, 1999.

**Kenneth Irvine**, board member for the City of Coronado Visitor's Bureau, was fined \$200 for failing to timely file his annual Statement of Economic Interests by April 3, 2000.

# October Commission Meeting Summaries

---

## **Standards in Conflict of Interest Analysis Discussed**

The Commission was asked to consider amending the standards in determining how long into the future a real estate broker or agent should look when determining if a particular decision could foreseeably effect a financial interest. Presently, if a decision will have an effect at anytime in the future, disqualification is required. Real estate agents and brokers asked that the standard be limited to decisions that could conceivably affect their interests only within 12 months of the date the decision is made.

Additionally, the Commission was asked whether it should consider a “standard of care” rule that would immunize public officials who take steps to comply with the law, but are mistaken in their belief that they have no conflict of interest, and vote in a decision which affects their economic interests. Staff recommended and the Commission concurred that both the “reasonably foreseeable” test and the “standard of care” issue should be deferred until after the new conflict regulations were adopted in January.

## **“Leasehold” Interests and Interests in Real Property Discussed**

The Commission had previously decided to include an official’s interest in a leasehold as an interest which would be “directly” affected by a decision if it were located within 500 feet of the property which is the subject of the decision. Staff brought the issue back to the Commission to illustrate the difficulty in simply treating leasehold interest of an official within 500 feet of real property that was the subject of decision under the existing language. The existing language focused on the effects on the fair market value of the property, which may or may not have an effect on a lessee of the property. Staff requested that the Commission allow staff to retool the language to reflect the Commission’s prior decision but also to better fit the nature of a leasehold interest in real property. Commission

agreed with staff and requested the regulation be brought back for consideration at the November meeting. The standard for determining material financial effect for interests in real property “indirectly” affected (located outside the 500 foot radius) was discussed as well. The Commission directed staff to continue to develop language that would provide that a public official would not have a conflict if the official’s property is located outside the 500 foot radius, unless it was demonstrated that there are unique circumstances surrounding the effect on the property.

## **Definitions and Terms as Used in Materiality Standards for “Business Entities”**

The Commission was asked whether it wanted to include in its materiality regulation applicable to business entities definitions of specific terms used in the regulation. Commission directed staff to notice a regulation that would defer to the Generally Accepted Accounting Principles (GAAP) and Generally Accepted Auditing Standards (GAAS) but would still describe the terms in the regulation consistent with GAAP/GAAS to provide guidance for public officials.

The Commission also opted to specify in a regulation that when a business entity holds a note on a piece of property, the property does not become an “asset” of the business entity until such time as the foreclosure process has been initiated. Prior to that time the business would not have an interest in the property.

Finally, the Commission determined that public officials should be allowed to use the most recent independently audited financial statements of their business entity to determine the entity’s revenues, expenses, gains or losses, as well as assets and liabilities.

### **Commission Revisits the Definition of “Public Official” and “Consultant”**

The Commission considered amendments to provide that members of government agency “committees” as well as members of board and commissions would be public officials. Also discussed was clarifying language that provides that an individual is a consultant under the Act if the consultant is performing a function that is performed by a position within the agency that *should* be designated in the agency’s code. The Commission continued discussion of the change to the consultant definition to November. The proposed amendment will also contain a note that members of certain nonprofit organizations may be public officials if they meet the criteria in the Commission’s previously issued *Siegel Opinion*.

### **Manner of Disqualification and Legally Required Participation Approved for Noticing**

The final conflict of interest regulation addressed the manner in which a public official must disclose the financial interest that is the basis for a conflict of interest. Presently, a public official must disclose on the record the specifics about a disqualifying financial interest. The proposed regulation will make this a permissive rather than a mandatory disclosure. Under the proposal, a public official can merely state that he or she is abstaining due to a conflict without specifically disclosing that interest.

The Commission also discussed a regulation addressing the disclosure of economic interests when an otherwise disqualified public official is nevertheless required to participate in a decision. This item was set for a second pre-adoption discussion in November.

The Commission took action on the following enforcement matters:

**Donna Courtright, Donna Courtright for State Assembly #24, and Michael Erickson**, were fined \$9,000 for failing to file four late contribution reports, a pre-election statement and a semi-annual campaign statement in connection with Ms. Courtright’s unsuccessful campaign in the June 1998 primary election.

**Maria Chacon, Ramiro Morales, Elizabeth Corona, and Committee to Re-Elect Chacon and Morales**, were fined \$8,500 for failing to file two pre-election statements and three late contribution reports in connection with Ms. Chacon and Mr. Morales’ successful bid for re-election to the City of Bell Gardens city council in the March 1999 city election.

**Douglas Anderson** was fined \$8,000 for violating the State’s revolving door provisions. From 1972 to 1992, Mr. Anderson worked for the Franchise Tax Board. In 1992, he left state service to begin employment with the accounting firm of Ernst & Young. After leaving state service, he violated the revolving door provisions by advising and assisting the Pacific Telesis Group, a client of Ernst & Young, in filing claims for a refund of taxes. The claims challenged the validity of an FTB tax issue determination, the same proceeding in which he participated while he was a state employee.

**Michael Erickson** was fined \$3,000 for failing to file late contribution reports disclosing contributions of \$86,530 made to Donna Courtright for Assembly in the final days before the June 1998 primary election and for failing to file a major donor campaign statement by July 31, 1998.

**Christine H. Russell** was fined \$2,400 for failing to file late contribution reports disclosing a contribution of \$10,000 to the Californians for Safe Neighborhood Parks and Clean Water Yes on Proposition 12 and 13 and a contribution of \$5,000 to the No on Knight committee in the final days before the March 2000 primary election.

# October Commission Meeting Summaries

---

**Voter Revolt to Cut Insurance Rates, William Westermeyer, Treasurer,** were fined \$2,000 for failing to maintain accurate records in connection with the activities of their ballot measure committee between December 1, 1994 and June 30, 1996. During this Franchise Tax Board audit period, the committee received contributions totaling \$249,936 and made expenditures of \$247,561.

**Venture Catalyst Incorporated,** was fined \$2,000 for failing to file a late contribution report disclosing a contribution of \$50,000 made to Californians for Clean, Safe, Reliable Water, Yes on Propositions 12 and 13 during the final days before the March 2000 primary election.

**John & Marcia Goldman,** were fined \$2,000 for failing to file a late contribution report disclosing a contribution of \$25,000 made to the Coalition to Save Prop. 10, a Project of Forum for Early Childhood Development; No on 28 committee during the final days before the March 2000 primary election.

**David Gerred and David Gerred for City Council,** were fined \$1,500 for Mr. Gerred's failure to file an annual and a leaving office Statement of Economic Interests while Mr. Gerred was on the City of Burbank's Transportation Commission. Additionally, Mr. Gerred ran for city council in 1995 but kept his campaign committee active. Semi-annual campaign statements due on January 31, 1999 and July 31, 1999 were not filed even after numerous notices were sent by the city clerk to obtain compliance.

**Padilla & Associates,** was fined \$1,500 for failing to file a late contribution report disclosing a contribution of \$10,000 made to the Assembly Democratic Leadership 2000 committee during the final days before the March 2000 primary election.

**California Cement Promotion Council** was fined \$1,500 for failing to file a late contribution report disclosing a contribution of \$10,000 made to Californians for Clean, Safe, Reliable Water Yes on Proposition 12 and 13 committee in the final days before the March 2000 primary election.

**Mary Acevedo,** a Commissioner for the Trade and Commerce Agency, was fined \$1,000 for failing to timely file her annual Statement of Economic Interests by April 1, 1999.

**John Lucak,** Director for the Wesport County Water District, was fined \$300 for failing to timely file his assuming office Statement of Economic Interests by April 6, 2000.

**Michael Neil,** Lifeguard Captain for the City of Coronado's Department of Recreation, was fined \$200 for failing to timely file his annual Statement of Economic Interests by April 3, 2000.



The legislative year has come to an end and significant changes have occurred to the campaign and statement-of-economic-interest thresholds and reporting requirements. Each of these amendments is effective January 1, 2001. The specific changes by topic are.

## Campaign Reporting

- The name and address of, and payments made to, ballot measure petition circulators are no longer required to be disclosed (§84211(r), SB 917, Ch. 161).
- The subvendor reporting threshold has been increased from \$100 to \$500 (§84211, SB 2076, Ch. 853).
- Any outstanding loans will now be disclosed on each campaign report (§84211, SB 207, Ch. 853).
- A detailed travel log is no longer required for travel expenditures (§84211(j)(7) repealed, SB 2076, Ch. 853).
- U.S. citizens living abroad are no longer prohibited from making contributions to ballot measures, and soliciting and accepting contributions from those individuals are no longer prohibited (§84320, AB 746, Ch. 349).

## Changes Affecting Candidates

- Local candidates will file Candidate Intention Statements (Form 501) with local filing officers rather than the Secretary of State (§85200, SB 2076, Ch. 853).
- The amount of direct personal benefit flowing from an expenditure of campaign funds necessary to trigger a “substantial personal benefit” for personal use purposes will increase from \$100 to \$200 (§89511, AB 746, Ch. 349).
- The Secretary of State will remove bank account information reported on Form 410 before it is posted on the Internet (§84602, SB 2108, Ch. 319).

## Campaign Statements

- The salary that triggers a semi-annual statement for elected officials who have not received contributions or made expenditures has increased from \$100 to \$200 per month (§84200(a)(2), AB 974, Ch. 130).
- The level of contributions that triggers a supplemental pre-election statement for a candidate or committee was raised from \$5,000 to \$10,000 (§84202.5, AB 974, Ch. 130).
- The level of contributions to elected state officers that will trigger off-year reports will increase from \$5,000 to \$10,000. (§84202.7, AB 974, Ch. 130).
- The level of independent expenditures by a candidate or committee that will trigger a supplemental independent expenditure report will increase from \$500 to \$1000 (§84203.5, AB 974, Ch. 130).

## Statements of Economic Interests and Conflicts of Interest

- The threshold value of an investment deemed an economic interest will increase from \$1,000 to \$2,000 (§§82034, 87103(a), and 87206(d), AB 974, Ch. 130).
- The threshold value of real property deemed an economic interest will increase from \$1,000 to \$2,000 (§§82033, 87103(b) and 87206(d), AB 974, Ch. 130).
- The disclosure ranges will be changed to create a range between \$100,001 and \$1,000,000 and another above \$1,000,000 (§87206(d), AB 974, Ch. 130).
- The threshold of income from a single source deemed an economic interest will increase from \$250 to \$500 (§87103(c), AB 974, Ch. 130).

# Legislative Wrap-Up

---

## **Enforcement**

- The maximum civil penalty available for violations of Sections 84300 (prohibits cash contributions of \$100 or more), 84304 (prohibits anonymous contributions of \$100 or more), 86203 and 86204 (prohibition on lobbyist gifts exceeding \$10 per month and penalty for accepting such a gift) is increased from \$500 to \$1000.

## **Chaptered But Not Amending the Political Reform Act**

- Creation of the California Commission on Internet Political Practices, with 13 members, two to be appointed by the Chairman of the FPPC (AB 2720, Ch. 975).
- Legislative intent language directing the FPPC to amend its regulations to minimize unwarranted disqualification, to clarify that possession of a professional license does not of itself give rise to disqualification, and to clarify that one industry, trade or profession is not necessarily prohibited from constituting a significant segment of the public for the purposes of establishing applicability of the “public generally” exception (AB 1838, Ch. 352).

**A Heartfelt "Thank You!"**

Well...we survived another round of candidate/treasurer seminars and conflict of interest code workshops. We wish to thank each and every clerk who allowed us use of their facilities to conduct these informal meetings. You folks are incredible hosts and go out of your way to make us feel welcome. (Thank you for the Cookies! Cookies! Cookies!)

Your Political Reform Consultants

***Maryann, Jeanette, Kevin, Dixie, Wayne,  
Trish, Adriane and Teri***

**Reminder  
Streamlined Termination Procedures**

With the November election at a close, this would be a good time to remind you of the streamlined termination procedures candidates now follow. These new procedures have eliminated unnecessary multiple filings. Candidates are no longer required to file Forms 415 or 416 to terminate. Unsuccessful Form 470 filers do not need to file any statements to terminate their status as a candidate.

To close a campaign committee:

- Disburse campaign funds
- File Form 410 (mark termination box)
- File Form 460 (mark termination box and if applicable, semi-annual box)

---

**When is the next Form 700 required to be filed?**

<b>Incumbents who were reelected:</b>	File on or before April 2, 2001
<b>Newly elected officeholders:</b>	File within 30 days of assuming office
<b>Defeated officeholders:</b>	File within 30 days of leaving office
<b>Elected State Officeholders (including newly elected)</b>	File on or before April 2, 2001

**Change in Place of Filing  
Candidate Intention Statement, Form 501**

Effective January 1, 2001, local filing officials will receive and retain the Form 501, Candidate Intention Statement, filed by their local candidates. For example, a city council candidate will file the Form 501 with the city clerk. Currently, all Form 501's are filed with the Secretary of State.

Since this legislative amendment does not take effect until January 1, candidates who file a Form 501 in 2000 will still file with the Secretary of State. This is true even if the Form 501 is filed in connection with a local election held in 2001.

## Advice Summaries

---

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance is also provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I."

---

### Campaign

**Charles H. Bell, Jr.**  
**Bell, McAndrews, Hiltachk &**  
**Davidian**  
**Dated July 24, 2000**  
**Our File Number: A-00-010a**

Under Sections 89510-89518, a committee's expenditure of campaign funds that are not surplus must be reasonably related to a political purpose. A committee's prioritized return of past contributions to several large contributors was to ensure that those to whom the candidate was closest were reimbursed for their political generosity and to facilitate the termination of the committee. Those reasons are reasonably related to a political purpose.

**Nicole Bergeron**  
**The Democratic Forum**  
**of Silicon Valley**  
**Dated June 2, 2000**  
**Our File Number: I-00-089**

Contributors may make contributions to campaigns via an Internet web site, using a check or credit card, where the Internet company that operates the web site receives the contributions and makes a lump sum payment to the campaign of all individual contributions received. The Internet company must be reported as an intermediary and must provide the campaign with records sufficient to satisfy the requirements of the Act.

**Robert W. Ford**  
**CDF Firefighters PAC**  
**Dated June 9, 2000**  
**Our File Number: I-00-099**

Campaign funds may be used for the association dues of a retired member in recognition of the member's previous voluntary contributions to the association's PAC.

**James A. Cathcart**  
**The Doctors' Company**  
**Dated June 22, 2000**  
**Our File Number: A-00-101**

A reciprocal medical malpractice insurer may solicit contributions to its sponsored committee from physician groups as part of negotiation over the price of insurance coverage.

**Diane Guyon**  
**County of El Dorado**  
**Dated May 25, 2000**  
**Our File Number: I-00-105**

El Dorado County may combine the second pre-election statement due July 27, 2000 with the semi-annual statement due July 31, 2000 for any committee formed to support or oppose the county's August 8, 2000 mail-in ballot election.

**Mari E. Lee**  
**OakPAC, Oakland Metropolitan**  
**Chamber of Commerce**  
**Dated June 14, 2000**  
**Our File Number: I-00-123**

Various contribution and expenditure limits in the Oakland campaign finance ordinance do not conflict or prevent any person from complying with the Act.

**Mark G. Sellers**  
**City of Thousand Oaks**  
**Dated August 7, 2000**  
**Our File Number: I-00-138**

Free legal services provided by a law firm to a candidate pertaining to his campaign are campaign contributions, not gifts.

**Sheryl Z. White**  
**Statecraft, Inc.**  
**Dated July 17, 2000**  
**Our File Number: A-00-140**

Major donor and independent expenditure committees are required to disclose subvendor information on the Form 461 when disclosing reportable expenditures.

**Greg Smith**  
**Dated July 12, 2000**  
**Our File Number: I-00-147**

This letter discusses the donation of a mailing list from a ballot measure committee to a controlled committee. There is also a brief discussion of the transfer ban during a special election and when a jurisdiction has contribution limits in place.

**Laurence S. Zakson**  
**Reich, Adell, Crost & Cvitan**  
**Dated August 22, 2000**  
**Our File Number: A-00-182**

When a PAC has an existing bank of phones used primarily for political purposes and the phones are used to make an independent expenditure in support of a candidate, only additional costs associated with the use of the phones are required to be reported.

## Conflicts of Interest

**Kevin O'Brien**  
**Santa Maria Water**  
**Conservation District**  
**Dated June 21, 2000**  
**Our File Number: A-99-111a**

Four directors of a water conservation district have business and real property interests that may be materially affected by litigation initiated by the district relating to water rights to groundwater in the Santa Maria Valley Groundwater Basin. The "predominant industry" public generally exception applies to the business interests of each of the four districts, who are elected from and represent separate districts. The general public generally exception applies to the real property interests of two of the directors.

**Jimmy L. Gutierrez**  
**City of El Monte**  
**Dated June 5, 2000**  
**Our File Number: I-00-050**

This letter provides informal assistance to seven members of the redevelopment project area committee about conflict of interest provisions.

## Advice Summaries

---

**Steve A. Perez**  
**County of Kern**  
**Dated May 26, 2000**  
**Our File Number: A-00-061**

A county supervisor has an investment interest in a start-up Internet company that plans to create a web site that will allow government agencies to purchase products online. This letter discusses whether the supervisor will have a conflict of interest in approving purchases made via the web site after the county has already decided to subscribe to the online service. The county will be able to use the web site free of charge. The vendors, however, would pay a fee to the web site company. For purposes of the Act, the web site company will be “doing business” in the county because it plans to directly solicit county representatives to use the service, and it stands to gain financially from each purchase the county makes.

**Daniel J. McHugh**  
**City of Redlands**  
**Dated June 1, 2000**  
**Our File Number: A-00-081**

A city councilmember has an economic interest in a church that owns property in the city’s sphere of influence. He may not participate in the city’s decision to annex the church’s property.

**Richard D. Jones**  
**City of La Habra**  
**Dated June 5, 2000**  
**Our File Number: A-00-086**

This letter discusses a city councilmember’s potential conflicts of interest which arise as a result of various business relationships with an attorney who is before the council representing business entities seeking city development permits.

**Albert Fishman**  
**City of Glendora**  
**Dated May 26, 2000**  
**Our File Number: A-00-096**

The conflict of interest prohibition does not apply to ministerial decisions. The approval of a final map is ministerial once the appropriate officials certify that the map is in substantial compliance with the tentative map and its attendant conditions.

**James P. Morris**  
**City of Claremont**  
**Dated June 21, 2000**  
**Our File Number: A-00-100**

A city councilmember may not participate in decisions regarding adoption of a university campus plan where the various council decisions are inextricably intertwined with decisions concerning a part of the development near his home.

**Henry Empeño, Jr.**  
**City of San Bernardino**  
**Dated June 9, 2000**  
**Our File Number: A-00-107**

A city councilmember may not vote on a request to establish a landscape maintenance assessment district for two tentative tracts that are within 300 feet of a common area owned by a homeowners’ association in which the public official is a member. The official may, however, appear before the city council to represent his personal interests, but he may not represent the homeowners’ association’s interests.

**Lawrence Fogel**  
**City of Scotts Valley**  
**Dated June 16, 2000**  
**Our File Number: A-00-109**

If all of the requirements of the “public generally exception” for principal residences have been met, a public official may participate in the decisions regarding a new housing development.

**Cliff Barrett**  
**City of Scotts Valley**  
**Dated June 23, 2000**  
**Our File Number: A-00-114**

If the requirements for the “public generally exception” for principal residences in small jurisdictions are met, the official may participate in the new housing proposal project.

**Jack R. Haynes**  
**City of El Monte**  
**Dated July 13, 2000**  
**Our File Number: A-00-118**

A public official may not participate in decisions regarding a redevelopment plan because it is reasonably foreseeable that those decisions will have some financial effect on the official's property interests, unless the "public generally" exception applies.

**Manuela Albuquerque**  
**City of Berkeley**  
**Dated June 7, 2000**  
**Our File Number: A-00-120**

A month-to-month tenancy is not an economic interest for purposes of the Act. In addition, a gift received in a bona fide dating relationship is also not an economic interest.

**Arthur Kennedy**  
**Isla Vista Recreation**  
**and Park District**  
**Dated June 27, 2000**  
**Our File Number: A-00-121**

An elected member of a recreation and park district may vote on issues concerning a nonprofit public benefit organization on whose board the member sits where the nonprofit pays the member no salary and is not otherwise an economic interest of the member.

**Jeffrey G. Scott**  
**Santa Rosa Community Services**  
**District**  
**Dated June 19, 2000**  
**Our File Number: A-00-122**

Community services district member must disqualify himself from decisions about the reconstruction and widening of a roadway because he owns property that fronts on the road, however, he may participate in the vote on the overall district budget.

**Terry L. Doyle**  
**Enterprise School District**  
**Dated July 17, 2000**  
**Our File Number: I-00-129**

General advice to school district board member whose wife is employed by the district as a teacher.

**Liane M. Randolph**  
**City of Half Moon Bay**  
**Dated July 26, 2000**  
**Our File Number: A-00-130**

A city councilmember is legally separated from her spouse. She has an economic interest in her spouse's separate property residence until the dissolution proceedings are final. The small city public generally exception does not apply because the residence is not the city councilmember's principal residence.

**Daniel J. McHugh**  
**City of Redlands**  
**Dated June 28, 2000**  
**Our File Number: A-00-133**

A city councilmember may have a conflict of interest in a small multifamily housing project located near her personal residence.

**Juanda Lowder Daniel**  
**City of Riverside**  
**Dated July 25, 2000**  
**Our File Number: A-00-134**

A city councilmember has jointly applied with four other property owners for a tract map to subdivide and develop five parcels. The official has an economic interest in the joint venture. She also has an economic interest in four parcels that are owned by other venturers, but are assets of the joint venture.

**Michael D. Milich**  
**City of Modesto**  
**Dated August 8, 2000**  
**Our File Number: A-00-136**

The letter discusses whether two councilmembers may participate in decisions regarding development of a multi-story office building and parking garage in downtown Modesto, analyzing their economic interests in an architectural firm, and downtown real estate.

**Joan Merriam**  
**Sierra Community College**  
**District**  
**Dated July 20, 2000**  
**Our File Number: I-00-142**

Salary and benefits from a community college would not require disqualification from making or participating in decisions that might affect the district.

## Advice Summaries

---

**Mark D. Hensley**  
City of El Segundo  
Dated July 17, 2000  
Our File Number: I-00-144

This informal advice letter generally discusses the Act's conflict of interest provisions in the context of a city councilmember's participation in decisions concerning the rebuilding of a local Air Force base in light of investments held by the councilmember in a Fortune 1000 defense contractor.

**Alecia Biddison**  
City of Scotts Valley  
Dated August 11, 2000  
Our File Number: A-00-149

Planning commissioner may participate in decisions on a development project located 1,030 feet from her primary residence because she falls within the public generally exception for officials in small jurisdictions.

**Randy Johnson**  
City of Scotts Valley  
Dated July 31, 2000  
Our File Number: A-00-150

Council member may participate in decisions on a development project located 732 feet from his primary residence because he falls within the public generally exception for officials in small jurisdictions.

**Kathy Howard**  
City of West Covina  
Dated July 17, 2000  
Our File Number: A-00-151

A city councilmember is an unpaid, elected member of a Republican central committee. She does not have an economic interest in the committee for purposes of the Act.

**Scott Smith**  
Best Best & Krieger  
Dated August 7, 2000  
Our File Number: A-00-153

Mayor may not vote to approve funding for a racing event owned by a company that is "otherwise related" to a company in which he has an investment interest. Two businesses are otherwise related if they share a common controlling owner.

**James Kardas**  
County of Calaveras  
Dated August 25, 2000  
Our File Number: I-00-160

The Act's conflict of interest rules do not prohibit a public official from holding any particular employment or running any particular type of business. However, a conflict of interest may arise in a particular governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on one of the official's economic interests.

**Wallace H. Whittier**  
City of St. Helena  
Dated August 16, 2000  
Our File Number: A-00-163

Mayor does not have a conflict of interest in a decision to amend the city's zoning ordinance. While the amendment could possibly affect his wife's employer if the employer decided to expand its business, there are no facts to indicate that the employer intends to expand the business.

**Wallace H. Whittier**  
City of St. Helena  
Dated August 16, 2000  
Our File Number: A-00-164

Councilmember does not have a conflict of interest in a decision to amend the city's zoning ordinance so long as the decision does not have a reasonably foreseeable material financial effect on the brokerage firm through which he conducts his brokerage business.

**Richard L. Christenson**  
City of Porterville  
Dated August 17, 2000  
Our File Number: A-00-166

Councilmember may not participate in votes on a local market's application for conditional use permitting the market to sell beer and wine. The councilmember provides private security services to the market, and thus the market has been a source of income to the council member of more than \$250 in the past year.



**Conflict of Interest  
Code**

**David D. Purnell**  
**City of Oakland,**  
**Public Ethics Commission**  
**Dated June 20, 2000**  
**Our File Number: A-00-098**

A charter city adopted a conflict of interest code that named the city clerk as the filing officer for statements of economic interests, and later created a public ethics commission. The creation of the commission, however, did not function as an amendment to the city's conflict of interest code, and compliance responsibilities thus remained with the city clerk.

**Suzanne Du Vall Knorr**  
**Los Angeles County**  
**Dated August 7, 2000**  
**Our File Number: I-00-156**

The Commission does not have the authority to amend the conflict of interest code for the County of Los Angeles. Designated employees may appeal inclusion in the code to their agency and, if appeal is denied, to the code reviewing body; the County Board of Supervisors is the code reviewing body in this case.

**Gift Limits**

**Barbara Kerr**  
**City of Alameda**  
**Dated June 5, 2000**  
**Our File Number: A-00-110**

Airline passes given to a councilmember's niece by the niece's employer, an airline, and then given by the niece to the councilmember are considered to be a gift from the niece and therefore not regulated by the Act. Since the gift is of free travel, however, the requestor is referred to the Attorney General's office for interpretation of Article XII, section 7, of the California Constitution.

**Tyrone I. Vahedi**  
**Law Offices of Tyrone I. Vahedi**  
**Dated July 12, 2000**  
**Our File Number: I-00-111**

An individual running for a union position may receive a loan, unless the loan is considered a gift prohibited by the gift limit. A loan is income if issued at fair market interest rate at the time it is made. However, a loan will be a gift to the extent that there is a differential between the loan's actual interest rate and fair market interest rate.

**Brandy S. Capik**  
**California Assembly**  
**Date June 9, 2000**  
**Our File Number: I-00-113**

The question presented is whether a public official has received a gift from a labor union or her father where the father is the president of a union and has significant input in the making of gifts by the union. Generally, gifts distributed to union members, including a public official's father, as part of the union's normal operations will not result in gifts to the public official when the father, in turn, gives the gift in question to the public official.

**Greg Zerovnik**  
**Kawama.com**  
**Dated August 21, 2000**  
**Our File Number: I-00-135**

A person subject to the Act's gift limitation may be prohibited from receiving winnings from a non-bonafide competition which are over \$300.

## Advice Summaries

---

**Zev Yaroslavsky**  
**County of Los Angeles**  
**Dated August 7, 2000**  
**Our File Number: A-00-171**

Under the “home-hospitality exception,” a county supervisor may stay at a friend’s house for one month while the supervisor remodels his house without incurring a reportable gift. After one month, the supervisor must pay equal consideration for the lodging to avoid violating the gift limit.

## Lobbying

**Colleen C. McAndrews**  
**California Environmental**  
**Education Interagency Network**  
**Dated June 5, 2000**  
**Our File Number: A-00-083**

The Walt Disney Company and a coalition of state agencies have entered into a partnership to sponsor the annual Jiminy Cricket’s Environmentality Contest, an educational program designed to promote environmental awareness and responsibility among fifth-graders throughout the entire state. Disney will be providing free admission, meals and lodging to the Governor, the Superintendent of Public Instruction, the Secretary of Cal-EPA, and the Secretary of the Resources Agency. Free admission and necessary meals and lodging are not gifts to these officials since they will be providing a service that is similar to participating in a panel.

Disney will also be providing the same payments to 22 agency employees who participated in coordinating the event. Free admission is not a gift to these employees since they will be participating in a ceremony honoring the fifth-grade class that is the grand prize winner. However, the “official or ceremonial role” exception does not extend to the free meals and lodging. As such, these payments are gifts to these employees.

**Judy Spelman**  
**Health Care for All - California**  
**Dated June 27, 2000**  
**Our File Number: A-00-128**

A registered nurse who volunteered as a lobbyist for a nonprofit, which is not her employer, is now asking the nonprofit to compensate her for the time she was lobbying because the time spent away from her nursing work is creating a financial hardship. Compensation received now for volunteer lobbying work will not require registration as a lobbyist so long as there was no understanding that she would be compensated for her lobbying work when the lobbying was performed. However, if she is compensated in the future for lobbying activities, she will have to register if she meets the test for contract lobbyist under Regulation 18239.

**Frank Cuny**  
**California Citizens For Health**  
**Freedom, Inc.**  
**Dated June 26, 2000**  
**Our File Number: I-00-143**

The requestor must register as a lobbyist if he lobbies on behalf of his employer and spends one-third or more of his compensated time engaging in direct communication; or, if he lobbies on behalf of entities other than his employer and receives or becomes entitled to receive \$2,000 or more in compensation in any calendar month for engaging in direct communication, other than administrative testimony, with one or more qualifying officials for the purpose of influencing legislative or administrative action.

## **Revolving Door**

**A.J. Yates**  
**Panagraph Marketing Solutions**  
**Dated August 17, 2000**  
**Our File Number: A-00-097**

**James F. Spagnole**  
**California Environmental**  
**Protection Agency**  
**Dated July 18, 2000**  
**Our File Number: I-00-145**

**Chris Beale**  
**Dated August 17, 2000**  
**Our File Number: A-00-146**

The permanent ban applies to any proceeding before a state administrative agency, officer or employee if the person subject to the Act previously participated in that proceeding as a state official.

An official with Cal/EPA, responsible for overseeing base closure issues and press duties on behalf of the agency, faces post-government employment restrictions if the official accepts private employment with a waste tire disposal company which entails working with the Integrated Waste Management Board, a subordinate agency of Cal/EPA.

A former employee of the Department of Fish and Game worked on the Cal-Fed Bay Delta Program as a state employee. As a private consultant for the federal government, the former state employee may not appear before or otherwise communicate with any officer or employee of the Department of Fish and Game about the project.

## **Section 84308**

**Janice Rutherford**  
**City of Fontana**  
**Dated June 27, 2000**  
**Our File Number: A-00-137**

**Carl W. Boznanski**  
**City of Yorba Linda**  
**Dated August 17, 2000**  
**Our File Number: A-00-172**

A disclaimer in a written solicitation for campaign contributions does not negate the solicitation for purposes of Section 84308. A candidate is not "soliciting" a contribution from a participant unless the candidate knows or has reason to know that the person being solicited is a participant in a proceeding pending before the board on which the candidate sits.

Section 84308 prohibits receipt of contributions over \$250 within three months following decision by board or commissioner even if official had recused himself from the decision-making process.

## **Mass Mail**

**Terese Quintanar**  
**Elsinore Valley Municipal Water**  
**District**  
**Dated July 26, 2000**  
**Our File Number: I-00-154**

This letter provides a general discussion of Regulation 18901 – Mass Mailings Sent at Public Expense.

### Statements of Economic Interest

**Kim L. Stam**  
**City of Sonora**  
**Dated June 20, 2000**  
**Our File Number: I-00-131**

The Commission is not the code reviewing body for and, therefore, does not determine which positions should be included in a city's conflict of interest code. However, it does not appear that members of the new Parking and Traffic Commission for the City of Sonora should be included in that city's code. In addition, those individuals holding positions not included in a conflict of interest code are not required to complete a Statement of Economic Interests.

**Barbara Booth Grunwald**  
**County of Fresno**  
**Dated August 22, 2000**  
**Our File Number: A-00-183**

The heads of agencies for county school and special districts within a county must file their statements of economic interests with the county board of supervisors.